<u>REMARKS/ARGUMENTS</u>

The foregoing amendment and the following arguments are provided to impart precision to the claims, by more particularly pointing out the invention, rather than to avoid prior art.

<u>Drawings</u>

Applicants have amended Figures 1A-1D and added the legend "Prior Art" per the Examiner's suggestion. For the Examiner's convenience, a complete set of Drawings, including Replacement Sheets for Figures 1A-1D are being submitted herewith in compliance with 37 C.F.R. § 1.85. No new matter has been added.

<u>35 U.S.C. § 102(e) Rejections</u>

Examiner rejected claims 1-3, 5-12, and 14-25 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent 6,091,897 (hereinafter "Yates").

> "To anticipate a claims, the reference must teach every element of the claim. A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." (Manual of Patent Examining Procedures (MPEP) ¶ 2131.)

Independent claims 1, 10, and 19 of the present application include limitations not disclosed or taught by Yates. As a result, claims 1, 10, and 19 are not anticipated by Yates.

In particular, the independent claims 1, 10, and 19, include the limitation, or a limitation similar thereto, of *determining if an architectural stack includes*

resources needed by a block of code, the block of code including multiple instructions. The limitation of *determining if an architectural stack includes resources needed by a block of code, the block of code including multiple instructions* is not disclosed nor suggested by Yates.

Rather, Yates discloses processing on an instruction by instruction basis: "The operating system initiates the execution of an instruction conversion program 16 or feeds the file *instruction by instruction* to an instruction pre-processor." (Yates, col. 9, lns. 25-28) (emphasis added).

Furthermore, Yates does not disclose the claimed limitation of *determining if an architectural stack includes resources needed by a block of code*. Rather, Yates discloses determining if a previously generated binary translation is available for the code that is currently requested to be translated:

> Prior to performing a conversion by the run time system 32, the
> run-time system 32 interrogates the server process 36 via a path 32a
> to determine from the server process *whether there is a native image*
> *corresponding to the routine of the application program stored in segment*
> *17b whose execution has just been requested by a user.* (Yates, col. 10,
> lns. 15-28) (emphasis added).

As a result of Yates not disclosing nor suggesting limitations included in applicant's independent claims, Yates does not anticipate independent claims 1, 10, and 19.

In addition, the remaining claims depend from one of independent claims 1, 10, and 19, and therefore include the distinguishing claim limitations of claims 1, 10, and 19, as discussed above. As a result, the remaining claims are also not anticipated by Yates.
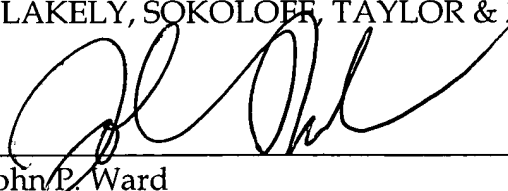
CONCLUSION

Applicants respectfully submit the present application is in condition for allowance. If the Examiner believes a telephone conference would expedite or assist in the allowance of the present application, the Examiner is invited to call John Ward at (408) 720-8300, x237.

Authorization is hereby given to charge our Deposit Account No. 02-2666 for any charges that may be due.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN

Date: 11/04/2003

John P. Ward
Reg. No. 40,216

12400 Wilshire Boulevard
Seventh Floor
Los Angeles, CA 90025-1026
(408) 720-8300